

AMENDED IN SENATE JUNE 2, 2005  
AMENDED IN SENATE MAY 26, 2005  
AMENDED IN SENATE MAY 4, 2005  
AMENDED IN SENATE APRIL 21, 2005  
AMENDED IN SENATE MARCH 29, 2005

**SENATE BILL**

**No. 929**

**Introduced by Senator Kehoe**

February 22, 2005

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An act to amend Sections 82002, 82039, and 86300 of the Government Code, and to amend Section 30325 of the Public Resources Code, relating to coastal resources, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 929, as amended, Kehoe. California Coastal Commission: administrative actions.

(1) Existing provisions of the Political Reform Act of 1974 generally define "administrative action" to mean the proposal, drafting, development, consideration, amendment, enactment, or defeat by a state agency of any rule, regulation, or other action in any ratemaking proceeding or any quasi-legislative proceeding.

This bill would specify that an "administrative action" for purposes of proceedings before the California Coastal Commission includes the proposal, drafting, development, consideration, amendment, enactment, or defeat of any rule, regulation, permit action, federal consistency review, appeal, local coastal program, port master plan, public works plan, long-range development plan, categorical or other exclusion from coastal development permit requirements, cease and

desist order, restoration order, or any other quasi-judicial or quasi-legislative matter requiring commission action.

(2) The Political Reform Act of 1974 defines a “lobbyist” as an individual, among other things, whose principal duties as an employee are to communicate with, among others, an agency official for the purpose of influencing legislative or administrative action. The act also defines an “agency official” as any member, officer, employee, or consultant of any state agency who as part of his or her official responsibilities participates in any administrative action in other than a purely clerical, secretarial, or ministerial capacity.

This bill would, for purposes of a quasi-judicial matter before the California Coastal Commission, as specified, provide that an “agency official” only means a member of the commission.

The bill would also provide that “lobbyist” does not include an individual who communicates with a member of the California Coastal Commission for compensation to advocate for an outcome in relation to no more than one administrative action during a calendar year.

(3) Existing law relating to lobbyists contained in the Political Reform Act of 1974 excludes, among others, employees of the State of California acting within the scope of their employment from the definition of “lobbyist.”

This bill would also exclude from the definition of “lobbyist” for those purposes, an employee of a local government agency seeking, within the scope of his or her employment, to influence quasi-judicial decisions of the California Coastal Commission.

(4) The California Coastal Act of 1976 provides that nothing in the act prohibits any person or any interested person from testifying at a commission hearing, workshop, or other official proceeding, or from submitting written comments for the record on a matter before the commission, as provided.

This bill would require that any person who communicates with the members of the commission regarding an administrative action of the commission, as defined, who qualifies as a lobbyist, as defined, is required to comply with specified requirements of the Political Reform Act of 1974, as provided.

Existing law makes a violation of the act subject to administrative, civil, and criminal penalties.

This bill would impose a state-mandated local program by imposing criminal penalties on persons who violate the provisions of this bill.

(5) The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes with a  $\frac{2}{3}$  vote of each house and compliance with specified procedural requirements.

This bill, which would declare that it furthers the purposes of the Political Reform Act of 1974, would therefore require a  $\frac{2}{3}$  vote.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(7) *This bill would declare that it is to take effect immediately as an urgency statute.*

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 82002 of the Government Code is  
2 amended to read:  
3 82002. (a) (1) "Administrative action" means the proposal,  
4 drafting, development, consideration, amendment, enactment, or  
5 defeat by any state agency of any rule, regulation, or other action  
6 in any ratemaking proceeding or any quasi-legislative  
7 proceeding, which shall include any proceeding governed by  
8 Chapter 3.5 (commencing with Section 11340) of Part 1 of  
9 Division 3 of Title 2.  
10 (2) For purposes of proceedings before the California Coastal  
11 Commission, "administrative action" includes the proposal,  
12 drafting, development, consideration, amendment, enactment, or  
13 defeat of any rule, regulation, permit action, federal consistency  
14 review, appeal, local coastal program, port master plan, public  
15 works plan, long-range development plan, categorical or other  
16 exclusion from coastal development permit requirements, cease  
17 and desist order, restoration order, or any other quasi-judicial or  
18 quasi-legislative matter requiring commission action.  
19 (b) "Ratemaking proceeding" means, for the purposes of a  
20 proceeding before the Public Utilities Commission, any  
21 proceeding in which it is reasonably foreseeable that a rate will

1 be established, including, but not limited to, general rate cases,  
2 performance-based ratemaking, and other ratesetting  
3 mechanisms.

4 (c) “Quasi-legislative proceeding” means, for purposes of a  
5 proceeding before the Public Utilities Commission, any  
6 proceeding that involves consideration of the establishment of a  
7 policy that will apply generally to a group or class of persons  
8 including, but not limited to, rulemakings and investigations that  
9 may establish rules affecting an entire industry.

10 SEC. 2. Section 82039 of the Government Code is amended  
11 to read:

12 82039. (a) “Lobbyist” means any individual who receives  
13 two thousand dollars (\$2,000) or more in economic consideration  
14 in a calendar month, other than reimbursement for reasonable  
15 travel expenses, or whose principal duties as an employee are, to  
16 communicate directly or through his or her agents with any  
17 elective state official, agency official, or legislative official for  
18 the purpose of influencing legislative or administrative action.  
19 An individual is not a lobbyist by reason of activities described in  
20 Section 86300.

21 (b) For the purposes of subdivision (a), a proceeding before  
22 the Public Utilities Commission constitutes “administrative  
23 action” if it meets any of the definitions set forth in subdivision  
24 (b) or (c) of Section 82002. However, a communication made for  
25 the purpose of influencing this type of Public Utilities  
26 Commission proceeding is not within subdivision (a) if the  
27 communication is made at a public hearing, public workshop or  
28 other public forum that is part of the proceeding, or if the  
29 communication is included in the official record of the  
30 proceeding.

31 (c) Notwithstanding Section 82004, for purposes of a  
32 quasi-judicial matter before the California Coastal Commission,  
33 as described in paragraph (2) of subdivision (a) of Section 82002,  
34 “agency official,” as used in subdivision (a) of this section, shall  
35 only mean a member of the California Coastal Commission.

36 (d) Notwithstanding subdivision (a), “lobbyist” shall not  
37 include an individual who communicates with a member of the  
38 California Coastal Commission for compensation to advocate for  
39 an outcome in relation to no more than one administrative action  
40 during a calendar year.

1 SEC. 3. Section 86300 of the Government Code is amended  
2 to read:

3 86300. The provisions of this chapter are not applicable to  
4 any of the following:

5 (a) An elected public official acting in his or her official  
6 capacity or an employee of the state acting within the scope of  
7 his or her employment. However, an employee of the state, other  
8 than a legislative official, who attempts to influence legislative  
9 action and who would be required to register as a lobbyist, except  
10 for the provisions of this subdivision, shall not make gifts of  
11 more than ten dollars (\$10) in a calendar month to an elected  
12 state officer or legislative official.

13 (b) A newspaper or other periodical of general circulation,  
14 book publisher, radio or television station, any individual who  
15 owns, publishes, or is employed by any such newspaper or  
16 periodical, or radio or television station, which in the ordinary  
17 course of business publishes news items, editorials, or other  
18 comments, or advertisements that directly or indirectly urge  
19 legislative or administrative action, if such newspaper,  
20 periodical, book publisher, radio or television station, or  
21 individual, engages in no further or other activities in connection  
22 with urging legislative or administrative action other than to  
23 appear before a committee of the Legislature or before a state  
24 agency in support of or in opposition to such action.

25 (c) A person when representing a bona fide church or religious  
26 society solely for the purpose of protecting the public right to  
27 practice the doctrines of such church.

28 (d) An employee of a local government agency seeking, within  
29 the scope of his or her employment, to influence quasi-judicial  
30 decisions of the California Coastal Commission.

31 SEC. 4. Section 30325 of the Public Resources Code is  
32 amended to read:

33 30325. (a) Nothing in this article prohibits any person or any  
34 interested person from testifying at a commission hearing,  
35 workshop, or other official proceeding, or from submitting  
36 written comments for the record on a matter before the  
37 commission. Written comments shall be submitted by mail or  
38 delivered to a commission office, or may be delivered to the  
39 commission at the time and place of a scheduled hearing.

(b) Any person who communicates with the members of the commission regarding an administrative action of the commission, as defined in subdivision (a) of Section 82002 of the Government Code, and who qualifies as a lobbyist, as defined in subdivision (a) of Section 82039 of the Government Code, shall comply with the requirements of Chapter 6 (commencing with Section 86100) of Title 9 of the Government Code.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 6. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

*SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:*

*In order to clarify existing law governing the California Coastal Commission, it is necessary that this bill take effect immediately.*